



U.S. Department of Justice

*United States Attorney
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JAM

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October 17, 2019

By Hand and ECF

TO BE FILED UNDER SEAL

The Honorable Joanna Seybert
United States District Judge
Eastern District of New York
Central Islip, New York 11722

Re: United States v. Jermaine Rodgers
Criminal Docket No. 16-495 (JS)

Dear Judge Seybert:

The government respectfully submits this letter, pursuant to Section 5K1.1 of the United States Sentencing Guidelines (the "Guidelines") and Title 18, United States Code, Section 3553(e), to apprise the Court of the defendant's assistance to the government and permit the Court, in its discretion, to impose a sentence below the otherwise applicable statutory minimum sentence and advisory Guidelines range. As set forth more fully below, though he did not testify in any matter, the defendant provided the government with information to assist in an ongoing investigation.

I. Facts

The Pre-Sentence Report ("PSR") accurately summarizes the offense conduct in this case. Generally, the defendant and his confederates participated in robbing a narcotics stash house, stealing approximately 50 pounds of marijuana. The defendant later sold and ingested the stolen marijuana.

III. The Defendant's Attempt at Cooperation

It is significant that the defendant agreed to plead guilty and cooperate with the government prior to being formally charged with this offense. Instead, the defendant began proffering with the government, admitting to knowledge of other violent incidents and narcotics trafficking. Indeed, the defendant was the one of the first individuals to meet with the government in connection with other robberies and gang activity, while other participants

were still at liberty. While the defendant's information did not lead to any arrests, search warrants or testimony, it was corroborated and fruitful in that it provided valuable intelligence regarding other criminal actors and syndicates in the Eastern District and elsewhere.

II. Guidelines Calculation

The government agrees with the United States Sentencing Guidelines range ("Guidelines" or "U.S.S.G.") calculated in the PSR, which results in a Total Offense Level of 19, a Criminal History Category of VI, and a Guidelines range of 63 – 78 months.

III. Analysis

The defendant should be credited for the substantial assistance, information and intelligence provided to the government during his proffers, as well as his willingness to be a witness, if necessary. However, his non-compliance with pretrial supervision is concerning, and the nature of the offense at issue is serious. Accordingly, while some jail time is appropriate, the government recommends that the Court, in its discretion, impose a below-Guidelines sentence.

Additionally, the government respectfully requests that this letter be filed under seal. As explained above, the defendant has provided information regarding numerous members of the armed robbery conspiracy as well as narcotics traffickers, but his cooperation was never publicly disclosed. If this letter is not filed under seal, it would reveal the defendant's cooperation and endanger his safety, particularly while incarcerated. United States v. Doe, 63 F.3d 121, 128 (2d Cir. 1995) (danger to person may be compelling reason to override public's right of access in courtroom closure context). Moreover, unsealing this letter, and thus revealing the details and extent of the defendant's cooperation will likely harm the ability of law enforcement to secure current and future cooperation from persons similarly situated to the defendant, a fact that also weighs against public disclosure. United States v. Amodeo, 71 F.3d 1044, 1050 (2d Cir. 1995).

Under these circumstances, the parties' countervailing interests outweigh the public's qualified right to access. As the facts set forth above provide ample support for the "specific, on the record findings" necessary to support sealing, Lugosch v. Pyramid Co., 435 F.3d 110, 120 (2d Cir. 2006), the government respectfully requests that the Court record those findings and file this letter under seal.

Respectfully submitted,

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